

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**DESTANEE SHAUNDREAL SMITH**

**v.**

**WALMART, INC.**

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**Civil Action No. 4:21-cv-1298**

**INDEX OF DOCUMENTS FILED IN STATE COURT**

1. Plaintiff's Original Petition, filed on October 26, 2021;
2. Return of Service for Walmart, Inc. dated October 28, 2021;
3. Defendant's Original Answer, filed November 22, 2021.

Respectfully submitted,



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(214) 672-2000  
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**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 24th day of November 2021, a true and correct copy of the foregoing document was forwarded via the Court's CM/ECF e-filing/service system to the counsel of record for Plaintiff.



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**STEVEN J. MOSES**

236-329896-21

FILED  
TARRANT COUNTY  
10/26/2021 11:16 AM  
THOMAS A. WILDER  
DISTRICT CLERK

CAUSE NO. \_\_\_\_\_

DESTANEE SHAUNDREAL SMITH

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IN THE DISTRICT COURT

*Plaintiff,*

v.

\_\_\_\_ JUDICIAL DISTRICT

WALMART INC.

*Defendant.*

TARRANT COUNTY, TEXAS

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**PLAINTIFF'S ORIGINAL PETITION**

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Destanee Shaundreal Smith files her Original Petition complaining of Defendant Walmart Inc. and respectfully shows the Court the following in support:

**I.****DISCOVERY CONTROL PLAN**

1. Pursuant to Rule 190 of the *Texas Rules of Civil Procedure*, Plaintiff affirmatively pleads that she seeks monetary relief over \$1,000,000. Plaintiff also requests that this case be placed into Level 3 Discovery Plan.

**II.****PARTIES**

2. Destanee Shaundreal Smith is a resident of Dallas County, Texas.

3. Defendant Walmart Inc. ("Walmart") is a foreign corporation organized under the laws of Delaware and headquartered in Arkansas. It can be served through its registered agent: C T Corporation System, 1999 Bryan Street, Ste. 900, Dallas, Texas 75201.

**III.**  
**JURISDICTION AND VENUE**

4. This Court maintains jurisdiction over Defendant Walmart because it does business in Texas and committed a tort within the state of Texas.

5. Venue is proper in Tarrant County because all or a substantial part of the events giving rise to Plaintiff's claims occurred in Tarrant County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002(a)(2).

**IV.**  
**BACKGROUND FACTS**

6. On December 23, 2019, Destanee went to the Walmart Supercenter #807 located at 6401 Ne Loop 820, North Richland Hills, Texas 76180 to shop for some items. As she was getting a shopping cart, a Walmart employee carelessly crashed 20-30 shopping carts that were being pushed by a motorized cart into Destanee causing serious personal injury. Walmart is liable for the negligent actions of its employees through the doctrine of *respondeat superior*.

7. Plaintiff suffered serious injuries and damages for which she now brings this lawsuit. Defendant proximately caused Plaintiff's injuries, and Plaintiff did not cause or contribute to her injuries in any way.

**V.**  
**CAUSES OF ACTION**

*Negligence*

8. The collision referenced above, and the resulting injuries and damages were proximately caused by the negligent conduct of Defendant Walmart through its employee. Walmart has a duty to safely conduct its business; including gathering carts, bringing the carts to the corral, and operating the motorized cart. Walmart breached this duty when its employee crashed 20-30

shopping carts into Plaintiff while the Walmart employee was using a motorized cart. This breach proximately caused Plaintiff's injuries

***Respondeat Superior***

9. Defendant Walmart is liable for its employee's negligence under the doctrine of *Respondeat Superior*. Defendant's employee was acting in his course and scope of employment and for the furtherance of Walmart's business objectives at the time he crashed the shopping carts into Plaintiff.

***Negligent Hiring, Training and Supervision***

10. Defendant Walmart failed to use the ordinary care of a reasonable entity when hiring, training, retaining, and supervising its employees to operate a motorized cart in the area of customers. It is clear from the careless operation of the motorized cart that the employee was using to push 20-30 shopping carts that the employee was not properly trained to operate the machinery around customers. Even more egregious is the employee's callous disregard for Plaintiff after he caused her injuries.

**VI.**  
**DAMAGES**

11. As a result of the injuries sustained by Plaintiff caused by the collision in which this lawsuit arises from, Plaintiff sues for the following:

- a. Physical pain and suffering the past;
- b. Physical pain and suffering that Plaintiff will experience in the future;
- c. Mental anguish suffered in the past;
- d. Mental anguish Plaintiff will experience in the future;
- e. Medical expenses incurred in the past;

- f. Medical expenses the Plaintiff will incur in the future;
- g. Physical impairment suffered in the past;
- h. Physical impairment the Plaintiff will suffer in the future;
- i. Loss of earning capacity past and future; and
- j. Disfigurement.

12. Defendant's actions caused Plaintiff to suffer and sustain damages within the jurisdictional requirements of this Court and in such an amount as evidence may show proper at the time of trial.

**VII.**  
**PREJUDGMENT AND POST JUDGEMENT INTEREST**

13. Plaintiff seeks pre-judgement and post judgement interest as allowed by law.

**VIII.**  
**COURT COSTS**

14. Plaintiff sues to recover court costs as allowed by law.

**IX.**  
**DEMAND FOR JURY TRIAL**

15. Plaintiff demands jury trial and has tendered the appropriate fee.

**X.**  
**INITIAL DISCLOSURES**

16. Defendant is required to provide initial disclosures in accordance with *Texas Rule of Civil Procedure* 194.2.

**XI.**  
**RULE 193.7 NOTICE**

17. Plaintiff intends to use Defendant's discovery responses as evidence at trial in accordance with such right and privileges established by *Texas Rule of Civil Procedure* 193.7.

**XII.**  
**PRAYER**

18. For these reasons, Plaintiff prays that Defendant be cited to appear and answer herein, and that upon final hearing hereof, Plaintiff has judgment against Defendant for actual damages, prejudgment and post judgment interest, and costs. Plaintiff further prays for such other and further relief, at law or in equity, general or specific, that Plaintiff may be justly entitled.

Respectfully submitted,

By: /s/ Myles A. Lenz

Ramez F. Shamieh

Louisiana State Bar No. 35558

Texas State Bar No. 24066683

New York State Bar No. 5280219

Myles A. Lenz

Texas State Bar No. 24092685

[myles@shamiehlaw.com](mailto:myles@shamiehlaw.com)

**SHAMIEH LAW, PLLC**

1111 West Mockingbird Lane, Suite 1160

Dallas, Texas 75247

214.389.7333 telephone

214.389.7335 facsimile

**ATTORNEYS FOR PLAINTIFF**

236-329896-21  
THE STATE OF TEXAS  
DISTRICT COURT, TARRANT COUNTY

FILED  
TARRANT COUNTY  
11/2/2021 1:47 PM  
THOMAS A. WILDER  
DISTRICT CLERK

## CITATION

Cause No. 236-329896-21

DESTANEE SHAUNDREAL SMITH  
VS.  
WALMART INC.

TO: WALMART INC

B/S REG AGENT-CT CORPORATION SYSTEM 1999 BRYAN ST STE 900 DALLAS, TX 75201-

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 236th District Court, 100 N CALHOUN, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

DESTANEE SHAUNDREAL SMITH

Filed in said Court on October 26th, 2021 Against  
WALMART INC

For suit, said suit being numbered 236-329896-21 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

AFFIDAVIT  
ATTACHED

MYLES A LENZ

Attorney for DESTANEE SHAUNDREAL SMITH Phone No. (214)389-7333  
Address 1111 W MOCKINGBIRD LN STE 1160 DALLAS, TX 75247

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 27th day of October, 2021.

By

*Natalie Thigpen*  
NATALIE THIGPEN



A CERTIFIED COPY  
ATTEST: 10/27/2021  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: /s/ Natalie Thigpen

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

Thomas A. Wilder, Tarrant County District Clerk, 100 N CALHOUN, FORT WORTH TX 76196-0402

## OFFICER'S RETURN \*23632989621000005\*

Received this Citation on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M; and executed at \_\_\_\_\_ within the county of \_\_\_\_\_, State of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by delivering to the within named (Def.): \_\_\_\_\_ defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: \_\_\_\_\_

County of \_\_\_\_\_ State of \_\_\_\_\_ By \_\_\_\_\_ Deputy

Fees \$ \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_ (Must be verified if served outside the State of Texas)

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ to certify which witness my hand and seal of office

(Seal)

County of \_\_\_\_\_, State of \_\_\_\_\_

A CERTIFIED COPY  
ATTEST: 11/24/2021  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: /s/ Kristoffer L. Shafer





*CITATION*

Cause No. 236-329896-21

DESTANEE SHAUNDREAL SMITH

VS.

WALMART INC.

ISSUED

This 27th day of October, 2021

Thomas A. Wilder  
Tarrant County District Clerk  
100 N CALHOUN  
FORT WORTH TX 76196-0402

By NATALIE THIGPEN Deputy

MYLES A LENZ

Attorney for: DESTANEE SHAUNDREAL SMITH  
Phone No. (214)389-7333  
ADDRESS: 1111 W MOCKINGBIRD LN STE 1160

DALLAS, TX 75247

*CIVIL LAW*



\*23632989621000005\*

SERVICE FEES NOT COLLECTED  
BY TARRANT COUNTY DISTRICT CLERK  
ORIGINAL

**AFFIDAVIT  
ATTACHED**



A CERTIFIED COPY  
ATTEST: 10/27/2021  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: /s/ Natalie Thigpen



**AFFIDAVIT OF SERVICE**

State of Texas

County of Tarrant

236th Judicial District Court

Case Number: 236-329896-21

Plaintiff:

**Destanee Shaundreal Smith**

vs.

Defendant:

**Walmart Inc**

For:

Myles Lenz

1111 W. Mockingbird Ln

Suite 1160

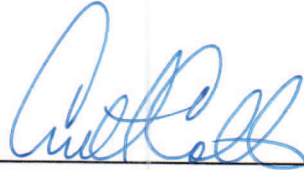
Dallas, TX 75247

Received by On Time Process Service on the 27th day of October, 2021 at 1:48 pm to be served on **Registered Agent for Walmart Inc CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, TX 75201.**

I, Anthony Collins, being duly sworn, depose and say that on the **28th day of October, 2021 at 2:45 pm, I:**

Executed service by hand delivering a true copy of the **Citation, Copy of Plaintiff's Original Petition** to: **George Martinez**, an authorized acceptance agent employed by **Registered Agent CT Corporation System, Inc.**, who is authorized to accept service of process for **Walmart Inc**, at the address of: **1999 Bryan Street, Suite 900, Dallas, TX 75201**, and informed said person of the contents therein, in compliance with state statutes.

"I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server in good standing in the judicial circuit in which the process was served. I have personal knowledge of the facts set forth in this affidavit, and they are true and correct."



**Anthony Collins**

PSC-357 Expires 12/31/2021

**On Time Process Service**

**1700 Pacific Ave**

**Suite 1040**

**Dallas, TX 75201**

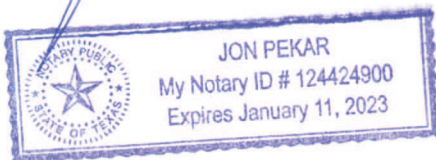
**(214) 740-9999**

Our Job Serial Number: **ONT-2021005914**

Ref: **Destanee Shaundreal Smith**

Subscribed and Sworn to before me on the 29th day of October, 2021 by the affiant who is personally known to me.

NOTARY PUBLIC



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 58767339

Status as of 11/2/2021 3:35 PM CST

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jose Olivares		jose@shamiehlaw.com	11/2/2021 1:47:41 PM	SENT
Myles Lenz		myles@shamiehlaw.com	11/2/2021 1:47:41 PM	SENT

236-329896-21

FILED  
TARRANT COUNTY  
11/22/2021 9:39 AM  
THOMAS A. WILDER  
DISTRICT CLERK

**CAUSE NO. 236-329896-21**

<b>DESTANEE SHAUNDREAL SMITH</b>	<b>§</b>	<b>IN THE DISTRICT COURT</b>
	<b>§</b>	
	<b>§</b>	
<b>v.</b>	<b>§</b>	<b>236<sup>th</sup> JUDICIAL DISTRICT</b>
	<b>§</b>	
	<b>§</b>	
<b>WALMART INC.</b>	<b>§</b>	<b>TARRANT COUNTY, TEXAS</b>

**DEFENDANT'S ORIGINAL ANSWER**

**TO THE HONORABLE JUDGE OF SAID COURT:**

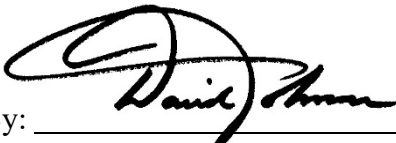
COMES NOW, Walmart Inc., Defendant in the above-entitled and numbered cause, and file this their Original Answer to Plaintiff's Original Petition, and would respectfully show the Court as follows:

**I.**

Defendant generally deny the allegations contained in Plaintiff's Original Petition, demands strict proof thereof, and says this is a matter for jury decision.

**WHEREFORE, PREMISES CONSIDERED,** Defendant pray that upon final hearing hereof, Plaintiff take nothing by this suit, that Defendant recover their costs, and that Defendant have such other and further relief, both at law and in equity, to which it may be justly entitled.

Respectfully submitted,

By: 

**DAVID A. JOHNSON**

Texas Bar No. 24032598

[djohnson@cowlesthompson.com](mailto:djohnson@cowlesthompson.com)

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Dallas, TX 75202

(214) 672-2000

(214) 672-2020 (Fax)

**ATTORNEYS FOR DEFENDANT  
WALMART INC.**

**CERTIFICATE OF SERVICE**

This is to certify that on the 22<sup>nd</sup> day of November 2021, the foregoing was electronically filed with the Clerk of the Court using the e-filing system which will send notification of such filing to all counsel of record.

  
\_\_\_\_\_  
**DAVID A. JOHNSON**

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Katherine Henderson on behalf of David Johnson  
 Bar No. 24032598  
 khenderson@cowlesthompson.com  
 Envelope ID: 59371221  
 Status as of 11/22/2021 9:47 AM CST

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jose Olivares		jose@shamiehlaw.com	11/22/2021 9:39:07 AM	SENT
Myles Lenz		myles@shamiehlaw.com	11/22/2021 9:39:07 AM	SENT
David AJohnson		djohnson@cowlesthompson.com	11/22/2021 9:39:07 AM	SENT
Steven JMoses		smoses@cowlesthompson.com	11/22/2021 9:39:07 AM	SENT
Katherine Henderson		khenderson@cowlesthompson.com	11/22/2021 9:39:07 AM	SENT